

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

State Farm Mutual Automobile Insurance Company,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-cv-10669
)	
Michael Angelo, <i>et al.</i>)	Hon. Robert H. Cleland
)	
Defendants.)	

DEFAULT JUDGMENT AGAINST DEFENDANT ORTHOPEDIC, P.C.

This matter is before the Court on Plaintiff’s Motion for Entry of Default Judgment Against Defendant Orthopedic, P.C. (ECF No. 127). The Court having considered the Motion, having conducted a hearing on the Motion, and otherwise being duly advised, notes that Defendant Orthopedic, P.C.’s counsel was permitted to withdraw by Order dated November 13, 2020. (ECF No. 95) (“Withdrawal Order”). The Court notes that it ordered Orthopedic, P.C. to “take rapid action to obtain new counsel” by December 8, 2020, stated that “[t]he consequences of a corporate entity such as Defendant Orthopedic, P.C., remaining unrepresented are potentially dire,” and cautioned that “[i]f Defendant Orthopedic, P.C., fails to [retain new counsel], it will be at risk of default.” (Withdrawal Order, ECF No. 95, PageID.5962 (citing *Harris v. Akron Dept. of Pub. Health*, 10 Fed. App’x 316, 319 (6th Cir. 2001)).)

Defendant Orthopedic, P.C. did not obtain new counsel by the Court's December 8, 2020 deadline. Since the Withdrawal Order was entered, Defendant Orthopedic, P.C. has failed to otherwise further defend itself in this civil action. As of this date, Defendant Orthopedic, P.C. has not obtained new counsel. The Court further notes that Defendant Orthopedic, P.C. is not an infant, incompetent person, or a member of the military service.

The Court further notes that in its Order granting Plaintiff's Motion to Compel Discovery Against Orthopedic, P.C. ("Discovery Order," ECF No. 71), the Court required Orthopedic, P.C. "to produce full and complete answers to Plaintiffs First Set of Interrogatories and produce all documents responsive to Plaintiff's First Request for Production of Documents by October 5, 2020." (Discovery Order, ECF No. 71, PageID.4391–4392.) The Court further awarded Plaintiff's costs and fees incurred in filing its Motion to Compel against Orthopedic, P.C. pursuant to Fed. R. Civ. P. 37(a)(5)(A). (ECF No. 80, PageID.4620.) Although Orthopedic P.C. remitted payment of Plaintiff's costs and fees, Orthopedic P.C. did not comply with the Discovery Order, and has not produced any documents or supplemental discovery responses to date. (ECF No. 127, PageID.7265)

On May 4, 2021, the Clerk of the Court issued an Entry of Default against Orthopedic, P.C. (ECF No. 122). Since the Entry of Default, no further action has been taken by Orthopedic, P.C. (or on its behalf) to appear, plead, or otherwise

participate in this civil action in accordance with the Federal Rules of Civil Procedure.

Therefore, the Court further finds that there is no just reason for delay, and hereby directs the entry of a judgment by default against Defendant Orthopedic, P.C. on Plaintiff's First, Second, Third and Fourth Causes of Action against Orthopedic, P.C. in the amount of One Million Seven-Hundred Ninety Thousand Dollars (\$1,790,000) under Fed. R. Civ. P. 55(b). This damages amount represents the sum of damages for which Orthopedic, P.C. is jointly and severally liable under the civil RICO claims alleged in Plaintiff's First and Second Causes of Action, trebled pursuant to 18 U.S.C. § 1964(c). This Default Judgment is based on Plaintiff's Motion for Entry of Default Judgment (ECF No. 127), the Affidavit of Brian Radcliff (ECF No. 127-4), and the hearing on Plaintiff's Motion for Entry of Default Judgment held on June 30, 2021. The Court finds that default judgment against Orthopedic, P.C. is equally appropriate under Fed. R. Civ. P. 16(f)(1)(C) and Fed. R. Civ. P. 37(b)(2)(A)(vi) as a sanction for Orthopedic P.C.'s failure to obey the Court's Discovery Order and Withdrawal Order.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff State Farm Mutual Automobile Insurance Company is awarded a default judgment against Defendant Orthopedic, P.C. pursuant to Fed. R. Civ. P. 55(b)(2) in the amount of One Million Seven-Hundred Ninety Thousand Dollars (\$1,790,000),

plus statutory interest as prescribed by 28 U.S.C. § 1961(a)–(b), at the statutorily prescribed rate of 0.09%, to accrue until the date this judgment is satisfied in full.

Dated: July 8, 2021

s/Robert H. Cleland
Hon. Robert H. Cleland
United States District Judge

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